

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DISTRICT**

**TRUSTEES OF OHIO OPERATING
ENGINEERS HEALTH AND
WELFARE PLAN,**

Plaintiff,

v.

JASON FIELDS, et al.,

Defendants.

Case No. 2:14-cv-1439

JUDGE GREGORY L. FROST

Magistrate Judge Norah McCann King

ORDER

This matter is before the Court for consideration of Plaintiff's February 26, 2015 motion for default judgment. (ECF No. 14.) In this motion, Plaintiff asks the Court to enter default judgment against April Fields. The docket fails to indicate, however, that prior to seeking default judgment, Plaintiff first obtained an entry of default as contemplated by Federal Rule of Civil Procedure 55(a).

An entry of default is distinct from entry of a default judgment. *O.J. Distrib., Inc. v. Hornell Brewing Co., Inc.*, 340 F.3d 345, 353 (6th Cir. 2003); *see also* 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 2692 (3rd ed. 2003); S.D. Ohio Civ. R. 55.1. By asking only for a default judgment, Plaintiff has failed to follow the sequential procedure set forth in the Rule. *See Brantley v. Runyon*, No. C-1-96-842, 1997 WL 373739, at *1 (S.D. Ohio June 19, 1997) ("In order to obtain a default judgment under Rule 55(b)(2), there must first be an entry of default as provided by Rule 55(a)."). *See also Webster Indus., Inc. v. Northwood Doors, Inc.*, 244 F. Supp. 2d 998, 1003 (N.D. Iowa 2003) (" 'entry of default under Rule 55(a) must precede grant of a default judgment under Rule 55(b)' " (quoting *Hayek v. Big Brothers/Big Sisters of America*, 198 F.R.D. 518, 520 (N.D. Iowa 2001))); *Lee v.*

Bhd. of Maint. of Way Employees–Burlington N. Sys. Fed’n, 139 F.R.D. 376, 380 (D. Minn. 1991) (“an entry of default is a prerequisite to a default judgment under Rule 55(b)”). The Court therefore cannot enter a default judgment under Rule 55(b). *Cf. O.J. Distrib., Inc.*, 340 F.3d. at 352 (“ ‘Rule 55 permits the clerk to enter a default when a party fails to defend an action as required. The court may *then* enter default judgment.’ ” (emphasis added) (quoting *Weiss v. St. Paul Fire & Marine Ins. Co.*, 283 F.3d 790, 794 (6th Cir. 2002))).

Accordingly, without expressing any opinion as to whether Plaintiff is entitled to an entry of default or subsequent default judgment, the Court **DENIES** Plaintiff’s motion for default judgment. (ECF No. 14.)

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE